



State of New Hampshire  
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095  
(603) 271-2147 FAX (603) 271-6588



Paul Vrusho  
98 Blakes Hill Road  
Northwood, NH 03261

ADMINISTRATIVE ORDER  
WD 02-054

November 20, 2002

RE Wetlands Bureau File #2002-00842,  
98 Blakes Hill Rd, Northwood

**A. INTRODUCTION**

This Administrative Order is issued by the New Hampshire Department of Environmental Services, Water Division, to Mr. Paul Vrusho pursuant to RSA 482-A:6 and RSA 485-A:17. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The New Hampshire Department of Environmental Services, Water Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. Paul Vrusho is an individual having a mailing address of 98 Blakes Hill Road, Northwood, NH 03261.

**C. STATEMENTS OF FACTS AND LAW**

1. RSA 482-A authorizes DES to regulate dredging, filling, and construction in or on any bank, flat, marsh, wetland, or swamp in and adjacent to any waters of the state. Pursuant to RSA 482-A:11, I the Commissioner of DES has adopted NH CODE ADMIN. RULES Wt 100 *et seq.* to implement this program.
2. RSA 482-A:3, I states that "no person shall excavate, remove, fill, dredge or construct any structures in or on any bank, flat, marsh, or swamp in and adjacent to any waters of the state without a permit from [DES]."
3. Pursuant to RSA 485-A:17, DES regulates significant alteration of terrain and erosion control through a permit program. Pursuant to RSA 485-A:6, VIII, DES has adopted NH CODE ADMIN. RULES Env-Ws 415 to implement this program.
4. RSA 485-A:17, I requires any person proposing to significantly alter the characteristics of the terrain to first obtain a permit from DES.
5. Env-Ws 415.02(y) defines "to significantly alter the characteristics of the terrain" as "to undertake any activity anywhere in the state that changes or disturbs the terrain so as to impede the natural runoff or create an unnatural runoff that has the potential to adversely affect water

quality in the state's surface waters." The examples included with the definition include earth moving activities which result in a disturbance of more than 100,000 square feet of contiguous area and timber harvesting operations.

6. George and Beverly Vrusho are the owners of the land located at 98 Blakes Hill Rd in Northwood, more particularly identified on Northwood Tax Map 224 as Lot 25 (the "Property"). The Northwood Police, and Northwood Building Inspector have verified that their son, Paul Vrusho resides at the Property.

7. On October 31, 2002, DES personnel conducted a field investigation of the Property. The purpose of the investigation was to determine compliance with RSA 482-A and RSA 485-A:17 and the rules adopted pursuant thereto.

8. During the inspection, DES personnel observed that more than 100,000 square feet of contiguous terrain has been disturbed on the Property.

9. During the inspection, DES personnel also observed that site work had caused the filling of wetlands and caused sediment to fill in wetlands and a stream on the Property and the abutting property. Additionally, the inspection found sand fill for a beach placed on the banks and shoreline of Northwood Lake. The beach sand was also observed in the stream which outlets to Northwood Lake.

10. During the inspection Paul Vrusho stated that he is responsible for the work described above on the Property.

11. A review of DES records shows that no permits have been issued under RSA 482-A:3 or RSA 485-A:17, I, to George, Beverly or Paul Vrusho or Granite State Farm for the work observed on the Property.

#### **D. DETERMINATION OF VIOLATIONS**

1. Paul Vrusho has violated RSA 482-A:3, by filling wetlands and a stream without obtaining a permit from DES.

2. Paul Vrusho has violated RSA 482-A:3, I, by filling the banks and shoreline of Northwood Lake without obtaining a permit from DES.

3. Paul Vrusho has violated RSA 485-A:17 by significantly altering more than 100,000 square feet of terrain without obtaining a permit from DES.

**This Order does not represent all violations observed during the October 31 inspection. DES intends to take further enforcement action, including without limitation, issuing another administrative order, seeking administrative fines, or referring this matter to the Office of the Attorney General.**

### E. ORDER

Based on the above findings, DES hereby orders Mr. Paul Vrusho as follows:

1. **Immediately** cease all work in wetlands within DES jurisdiction on the Property, except as necessary to stabilize and restore the property as specifically authorized by E.2 through E.4, below.
2. **Immediately** and in any event not later than **November 27, 2002** submit a letter of confirmation to DES indicating that Mr. Vrusho has retained a certified wetland scientist to delineate jurisdictional areas under RSA 482-A, relative to the filled wetlands, stream, and lakefront shoreline on the Property; to submit a plan for restoration of the impacted jurisdictional areas; and to provide oversight of the installation and maintenance of siltation and erosion controls and the temporary and permanent stabilization of the property.
3. **Immediately** and in any event no later than **November 27, 2002** reinforce the silt fence at the bottom of the large pile of fill on the south side of the Property with another, properly-installed, silt fence. **Immediately** and in any event no later than **November 21, 2002** install siltation and erosion controls along the outer edge of the sand fill that is immediately adjacent to Northwood Lake and along the stream to prevent any further migration of fill into the stream or the lake and to prevent any further water quality degradation.
4. **Immediately** and in any event no later than **November 27, 2002** pull back the large pile of fill on the south side of the Property to create a 3:1 slope (a vertical rise of 1 foot for every 3 feet of horizontal distance), then **immediately** cover the slope with jute matting and straw mulch. Place all fill that is removed to create the 3:1 slope in areas out of jurisdiction (*i.e.*, in an upland area) and surround it with properly installed silt fence so that there are no further impacts to jurisdictional areas from erosion.
5. Submit reports prepared by a certified wetland scientist documenting compliance with this Order in accordance with E. 1. through 4. above. The report shall include photos of all siltation and erosion controls, the removal in progress, and include a narrative description of work done under the Order. The first report shall be submitted by **November 27, 2002** documenting compliance with E.1.-3. The second report shall be due on **December 6, 2002** showing compliance with E.4.
6. **Within 45 days** and in any event no later than **December 30, 2002**, submit to DES a restoration plan which includes the following:
  - (a) A plan with dimensions, drawn to scale, indicating:
    - (i) Delineation of the wetlands and other jurisdictional areas to their original limits in accordance with Section F of the 1987 Army Corps of Engineers Manual for Delineation of Jurisdictional Wetlands,
    - (ii) Delineation of the existing conditions showing the extent of the filling;
  - (b) A plan to remove the sand and fill from the stream, shoreline and adjacent areas and for restoration of the shoreline;
  - (c) A proposed construction sequence and time schedule including equipment and methods

- for accomplishing restoration no later than **June 1, 2003**;
- (d) A proposed monitoring plan, including at least 3 restoration progress reports due as follows: **June 15, 2003; September 15, 2003 and June 15, 2004**;
- (e) A description of the method for documenting at least 75% survival of all vegetation planting during the restoration.

7. Carry out restoration, upon approval and as conditioned by DES

Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Arlene Allen  
DES Water Division, Wetlands Program  
6 Hazen Drive - P.O. Box 95  
Concord, NH 03302-0095

**F. APPEAL**


Any person aggrieved by determination D.1 or D. 2 of this Order may apply for reconsideration of the determination to the DES Wetlands Bureau within 20 days from the date of the Order. A motion for rehearing must describe in detail each ground for the request. DES may grant a rehearing if in its opinion, good reason is provided in the motion.

Any person aggrieved by determination D.3 of this Order may appeal the determination to the New Hampshire Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center, on the web at <http://www.des.state.nh.us/desadmin.htm> or at (603) 271-2975.

Filing an appeal or motion for reconsideration of the Order will not automatically relieve Mr. Paul Vrusho of his obligation to comply with the Order.

**G. OTHER PROVISIONS**

Please note that RSA 482-A and RSA 485-A provide for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Mr. Paul Vrusho remains obligated to comply with all applicable requirements.



Harry T. Stewart, P.E., Director  
Water Division



George Dana Bisbee  
Acting Commissioner  
Department of Environmental Services

Certified Mail/RRR: 7002 2030 0004 0813 4767

CC: George and Beverly Vrusho  
Michael C. McCarthy, Esq.  
Gretchen Rule, Administrator, DES Legal Unit ✓

Public Information Officer, DES PIP Office  
Rene Pelletier, Manager, Land Resources Management Program  
Collis Adams, Administrator, DES Wetlands Bureau  
Jennifer J. Patterson, Sr. Asst. Attorney General, NH DOJ EPB  
Northwood Conservation Commission  
Northwood Board of Selectmen